IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

SUMMIT 6 LLC,	§
	§
Plaintiff,	§
	§
v.	§ **CIVIL ACTION NO. 7:14-cv-00014**
	§
HTC CORPORATION,	§
HTC AMERICA, INC.,	§
LG ELECTRONICS, INC.,	§
LG ELECTRONICS USA, INC.,	§
LG ELECTRONICS MOBILECOMM	§ **JURY TRIAL DEMANDED**
USA, INC.,	§
MOTOROLA MOBILITY LLC, and	§
TWITTER INC.,	§
	§
Defendants.	§
	§
	§
SUMMIT 6 LLC,	§
	§
Plaintiff,	§
	§
v.	§ **CIVIL ACTION NO. 7:14-cv-00106**
	§
APPLE INC.	§
	§
Defendant.	§
	§ **JURY TRIAL DEMANDED**
	§

APPENDIX IN SUPPORT OF SUMMIT 6'S SUR-REPLY
CLAIM CONSTRUCTION BRIEF

1

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MOTOROLA MOBILITY LLC, and	§	
TWITTER INC.,	§ §	
Defendants.	§ §	
SUMMIT 6 LLC,	§ § §	
Plaintiff,	§ §	
v.	§ §	**CIVIL ACTION NO. 7:14-cv-00106**
APPLE INC.	§ § §	
Defendant.	§ §	**JURY TRIAL DEMANDED**
	§	

DECLARATION OF COLLEEN BLOSS IN SUPPORT OF
SUMMIT 6 LLC'S SUR-REPLY CLAIM CONSTRUCTION BRIEF

I, Colleen Bloss, do state and declare as follows:

I am an attorney with the law firm of McKool Smith PC ("McKool Smith"), counsel for

Plaintiff Summit 6 LLC ("Summit 6") in this action. I make this declaration in support of

Plaintiff Summit 6's Sur-Reply Claim Construction Brief, filed herewith. Unless otherwise

stated, the matters contained in this declaration are of my own personal knowledge and, if called as a witness, I could and would testify competently to the matters set forth herein.

1.   Attached hereto as Exhibit 1 is a true and correct copy of excerpts from Dr. Mark Jones' Deposition dated January 29, 2015.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 6, 2015 in Dallas, Texas.

                                        /s/ Colleen Bloss
                                        Colleen Bloss

Exhibit 1

Page 1

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            IN THE UNITED STATES DISTRICT COURT
             FOR THE NORTHERN DISTRICT OF TEXAS
                   WICHITA FALLS DIVISION

*************************************************************

SUMMIT 6 LLC,

          Plaintiff,

    -vs-                     Civil Action No. 7:14-cv-00014

HTC CORPORATION,
HTC AMERICA, INC.,
LG ELECTRONICS, INC.,
LG ELECTRONICS USA, INC.,
LG ELECTRONICS MOBILECOMM USA, INC.,
MOTOROLA MOBILITY LLC, and
TWITTER, INC.,

          Defendants.

*************************************************************

SUMMIT 6 LLC,

          Plaintiff,

    -vs-                     Civil Action No. 7:14-cv-00106

APPLE INC.,

          Defendant.

*************************************************************



         VIDEOTAPED DEPOSITION OF MARK T. JONES, Ph.D.

                  9:58 a.m. to 2:13 p.m.

                   January 29, 2015

                   Blacksburg, Virginia



      REPORTED BY:  Rhonda D. Tuck, RPR, CRR
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Mark T. Jones, Ph.D.
January 29, 2015

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1   Videotaped deposition of MARK T. JONES,

2 Ph.D., taken and transcribed on behalf of the

3 Defendants, by and before Rhonda D. Tuck, RPR, CRR,

4 Notary Public in and for the Commonwealth of

5 Virginia at large, pursuant to Rule 30 of the

6 Federal Rules of Civil Procedure, and by Notice to

7 Take Depositions; commencing at 9:58 a.m., January

8 29, 2015, at Blacksburg, Virginia.

9

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Page 3

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24

25

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1   I N D E X

2

WITNESS: MARK T. JONES, Ph.D.

3

  Examination by Mr. James..............................6

4

5

6   E X H I B I T S

7 Jones Exhibit Number 1..................................12

    Declaration of Mark Jones in Support of Summit 6 LLC's

8   Response to Defendants Opening Claim Construction Brief

9 Jones Exhibit Number 2..................................31

    Patent No.: US 7,765,482 B2

10

  Jones Exhibit Number 3..................................35

11   Demonstrative Timeline

12 Jones Exhibit Number 4..................................37

    Demonstrative Timeline

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  Jones Exhibit Number 5..................................38

14   Demonstrative Timeline

15 Jones Exhibit Number 6..................................43

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  Jones Exhibit Number 7..................................44

17   Demonstrative Timeline

18 Jones Exhibit Number 8..................................45

    Demonstrative Timeline

19

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20   Demonstrative Timeline

21 Jones Exhibit Number 10.................................69

    Opening Claim Construction Brief on Plaintiff

22   Summit 6, LLC

23 Jones Exhibit Number 11.................................83

    Patent No.: US 6,895,557 B1

24 Jones Exhibit Number 12.................................106

    Patent No.: US 8,612,515 B2

25   9:58 a.m., January 29, 2015)

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2

3   THE VIDEOGRAPHER: Good morning. We

4 are on the record. This is the recorded video

5 deposition of Mark T. Jones, Ph.D., in the

6 matter of Summit 6 LLC versus LG Electronics

7 Mobilecomm USA, et al., taken on behalf of the

8 defendant.

9   This deposition is being taken place at

10 the Inn at Virginia Tech, January 29th, 2015,

11 at approximately 9:58 a.m. My name is Ren

12 Angle. I am a videographer with U.S. Legal

13 Support. We are located at 901 Prices Fork

14 Road, Blacksburg, Virginia 24061. Video and

15 audio recording will be taking place unless

16 all other counsel have agreed to go off the

17 record.

18   Would all present please identify

19 themselves, beginning with the witness.

20   THE WITNESS: Mark T. Jones.

21   MR. JAMES: Bryan James, from McDermott

22 Will & Emery, representing the HTC entities.

23   MR. DOAN: Jimmy Doan, with WilmerHale,

24 representing Apple.

25   MR. AURENTZ: Phillip Aurentz, with

2 (Pages 2 to 5)

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1 claims, there's nothing that requires Step C to
2 occur after Step B. Is that right?
3   A.   That's correct.
4   Q.   Is there anything in the patent claims
5 that would prevent Step C from being performed, as
6 depicted here in this timeline, before Step A?
7   A.   I don't think there's anything in the
8 claim that prevents that.
9   Q.   So I think now what we want to do is
10 talk about some of the possibilities with
11 Claims 17 and 18. So if you can turn to what is
12 now Exhibit 5. And this adds a further dot. And
13 I believe it's a red dot in your diagram, and it
14 says, "downloading or storing pre-processing
15 parameters prior to said identification," and this
16 is a composite of the requirements described in
17 Claims 17 and 18. Is that fair?
18   A.   The word is, is there a step, which I
19 couldn't agree with, but if you want it to just
20 mean that there is a date and time or a time in
21 which that they have been downloaded or they have
22 been stored, that would be fine.
23   Q.   Okay. Now, is there anything in the
24 patent specification claims or file history that
25 would prevent the downloading or storing or

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1 pre-processing parameters to occur before
2 retrieving the information that enables the
3 identification of the user as depicted in this
4 diagram?
5   A.   No.
6   Q.   So a system that was kind of arranged
7 in this way would work?
8   A.   I believe so.
9   Q.   Now, if this were the arrangement of
10 events, Claims 17 and 18 have this phrase, "said
11 identification." Would you agree with that?
12   A.   Yes.
13   Q.   And if the phrase of "said
14 identification" in Claims 17 and 18 -- strike
15 that.
16   So Claims 17 and 18, the downloading or
17 the storing of pre-processing parameters has to
18 occur prior to said identification. Is that
19 right?
20   A.   Again, I would have to say they have to
21 have been downloaded or stored prior to said
22 identification.
23   Q.   Now, if this were the order of events,
24 as depicted in Exhibit 5, the downloading or
25 storing of pre-processing parameters would occur

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1 before the identification of the user and the
2 identification of digital content. Isn't that
3 right?
4   MR. AURENTZ: Objection. Assumes
5   facts.
6   THE WITNESS: There's not a step of
7   identifying the user that's expressed in the
8   claims. And the step is retrieving
9 information that enables identification of the
10 user, but that doesn't indicate that
11 identification of the user has occurred. In
12 fact -- well, I guess that's the way I would
13 put it.
14 BY MR. JAMES:
15   Q.   Is there anything preventing the
16 identification of the user from taking place after
17 retrieving the information that enables
18 identification of a user?
19   A.   No. Wait. Let me just look at this.
20 There's nothing that prevents that.
21   Q.   In patent language formulation, said
22 refers back to an antecedent or a word in a prior
23 claim or within the same claim. Is that right?
24   A.   Yes.
25   Q.   And so is there anything preventing the

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1 said identification in Claim 17 from referring to
2 the word "identification" in Step C?
3   A.   I guess I'm having trouble parsing out
4 what you mean by prevented. I don't think it is
5 correct.
6   Q.   I understand that your opinion, I
7 guess, expressed in your declaration calls into
8 question whether the identification could refer to
9 identification of a user.
10   My question is, in the use of "said" in
11 drafting patents, is there anything that would
12 prevent that said from referring to -- strike
13 that.
14   In the terms -- with respect to these
15 claims, 13, 17, 18 of the '482 patent, is there
16 anything that prevents said identification from
17 referring to the word "identification" in Step C?
18   A.   As I explained, I don't think it is
19 consistent with the logic of the claim and the
20 steps that are expressed. I don't know that --
21 well, that would be my opinion. I'm not sure
22 quite how to interpret prevent.
23   Q.   I think you're getting at the
24 difference, the problem I'm having. Now, I
25 understand that you think it makes more sense for

11 (Pages 38 to 41)

Mark T. Jones, Ph.D.
January 29, 2015

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1 it to refer to identification of digital content,
2 and it makes less sense to refer to identification
3 of a user.
4   But my question is, is there anything
5 that would rule out definitively -- not the right
6 word. Strike that.
7   Is there anything that would make it
8 legally improper for said identification to refer
9 to the identification of the user in Step C?
10   MR. AURENTZ: Objection. Commentary
11 and mischaracterizes his declaration and prior
12 testimony. Compound. Vague. Calls for legal
13 conclusion.
14   THE WITNESS: I guess, from a technical
15 perspective, I don't think it makes sense for
16 it to refer to the -- for it to refer to
17 identification of a user.
18   With respect to whether there's
19 something that legally prevents it, I don't --
20 I don't know what it would be that would --
21 what legal aspect it would be that would
22 prevent something like that from happening.
23 BY MR. JAMES:
24   Q.   Your objection is of a technical
25 nature. Would that be a fair characterization?

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1   A.   It's based on my tentacle understanding
2 of the claim and the specification.
3   Q.   So then if there's nothing -- well,
4 okay.
5   I'll just follow up on this while I'm
6 here. So if you would turn to the next exhibit,
7 which is Exhibit 6.
8   So in Exhibit 6, the red dot that
9 represents downloading or storing pre-processing
10 parameters has moved, and now it occurs between
11 Step C and Step A, so that the order of events,
12 you retrieve information that enables
13 identification of a user, then download or store
14 the pre-processing parameters, then receive
15 identification of a digital content followed by
16 the pre-processing step. Do you see that?
17   A.   Yes.
18   Q.   Now, in this case, if this were the
19 order then said identification would clearly only
20 relate to the receiving identification of a
21 digital content. Right? Because -- would you
22 agree with that?
23   A.   Yes.
24   Q.   Because in that case, the downloading
25 or storing of pre-processing parameters only

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1 occurs prior to the identification of digital
2 content?
3   A.   Yes.
4   Q.   Can you turn to the next exhibit, which
5 is Exhibit 7. Now, in this one, Step C is
6 represented in a different position. And the
7 order of events from the start along the timeline
8 is first receiving identification of a digital
9 content, then retrieving information that enables
10 identification of a user, followed by
11 pre-processing step, Step B. Do you see that?
12   A.   Yes.
13   Q.   Now, we've already discussed that
14 there's nothing that prevents Step C from
15 occurring in this order. Would you agree with
16 that?
17   A.   As long as the said retrieved
18 information is available prior to the said
19 received identification, yes.
20   Q.   Right. But this would be just the
21 steps in Claim 13. Maybe I'm misunderstanding.
22   A.   You are. The rest of element C or
23 Step C has "said retrieved information being
24 available to said client device prior to said
25 received identification." So what's being

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1 retrieved in C has to be available in Exhibit 7
2 prior to Step A.
3   Q.   So you're saying that -- are you saying
4 that this diagram does not -- would not be an
5 accurate representation of what is possible under
6 Claim 13?
7   A.   No. I'm saying that it's incomplete
8 and that it needs to reflect that additional
9 constraint. In essence, that's not all of Step C.
10 So the action of retrieving in Step C can, indeed,
11 occur where you have it, but there's the
12 additional constraint that's not being reflected
13 there.
14   Q.   That's just that the information that
15 is retrieved in Step C already exists prior to
16 Step A?
17   A.   Or is available to the client.
18   Q.   Available to the client. Okay. I
19 understand. With that understanding, let's look
20 at the next page, Exhibit 8. Now, again, what
21 we're trying to do -- well, strike that.
22   So in Exhibit 8, again, there's now
23 represented the downloading or storing of the
24 pre-processing parameters, which is described in
25 Claims 17 and 18.

12 (Pages 42 to 45)

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1 nothing that prevents the downloading or storing
2 pre-processing parameters from occurring in this
3 temporal location of events. Would you agree with
4 that?
5   A.   I guess with the understanding that, as
6 I noted on a couple previous slides, the -- I
7 wouldn't agree with the way Claims 17 and 18 is
8 worded here as requiring a step, and that I also
9 think there's a temporal restriction not on when
10 the retrieving happens but on when the information
11 is being retrieved is available.
12   Q.   But other than that, this is fair?
13   A.   Yes.
14   Q.   Okay. Now, in this case, the
15 downloading or storing of the pre-processing
16 parameters would occur -- strike that.
17   Now, you would agree that said
18 identification in Claims 17 or 18 could refer to
19 the identification of digital content in Step A in
20 this order of events. Is that right?
21   A.   I believe it does do that.
22   Q.   Understood. Given what we've already
23 discussed, I think you would disagree that said
24 identification, even though it occurs prior --
25 rather, the downloading or storing of

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1 pre-processing parameters here would -- strike
2 that.
3   The said -- in this order of events,
4 said identification, in your opinion, would not
5 technically make sense to refer to the
6 identification of a user phrase in Step C. Is
7 that right?
8   A.   Well, and Step C doesn't require an
9 identification.
10   Q.   Right. That's why I say the word or
11 the phrase "identification of a user" in Step C.
12 You would disagree that said identification refers
13 to that identification of a user in Step C, that
14 use of the phrase "identification of a user" in
15 Step C?
16   A.   I would disagree with that. Yes.
17   Q.   But you would agree that there is
18 nothing that would legally prevent the patentee
19 from intending said identification in Claims 17 or
20 18 to refer to the phrase "identification of a
21 user" in Step C?
22   MR. AURENTZ: Objection. Calls for a
23 legal conclusion. Asked and answered.
24   THE WITNESS: Beyond the answers that
25 I -- my answer is pretty much the same as it

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1 was before.
2 BY MR. JAMES:
3   Q.   Okay. I have a few more questions on
4 said identification, but it's been over an hour.
5 Would you like to take a break or keep going?
6   A.   We can keep going on that topic, just
7 wrap that one up.
8   Q.   I'm happy to move away from this.
9   MR. AURENTZ: Done with this?
10   MR. JAMES: Yes.
11   THE VIDEOGRAPHER: 12 minutes.
12   MR. JAMES: Okay.
13 BY MR. JAMES:
14   Q.   If you could turn to exhibit -- to the
15 patent, '482 patent, and can we look at column 4,
16 lines 42 to 45?
17   A.   I'm there.
18   Q.   Now, this paragraph, starting on
19 line 29, discusses some of the information capture
20 capabilities of the Prepare and Post tools. And
21 in line 42, there's a sentence that begins,
22 "covert information." It says, "Covert
23 information capture occurs by having the web
24 browser automatically passed to the Prepare and
25 Post tools known information, such as a user ID or

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1 password used to access the web page."
2   Do you see that?
3   A.   Yes.
4   Q.   So in this instance, as disclosed in
5 the specification, the identification of the user
6 has already taken place prior to accessing the web
7 page. Is that right?
8   A.   Well, an identification of user has
9 taken place.
10   Q.   An identification of a user has taken
11 place prior to -- in terms -- strike that.
12   In terms of Claims 13, 17 and 18, an
13 identification of a user has taken place prior to
14 the identification of digital content step and the
15 pre-processing step. Right?
16   A.   An identification of a user has
17 occurred before those, yes.
18   Q.   So is there anything that precludes the
19 patentee from intending the downloading of --
20 rather, from claiming the downloading of
21 pre-processing parameters prior to a user using an
22 ID or password to access the web page?
23   A.   Can you ask that first part again?
24   Q.   Sure. Given the scenario that we're
25 looking at in the specification, is there anything

APPX - 6

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1 the prosecuting attorney of the '482 patent
2 regarding this amendment?
3   A.   No.
4   Q.   So is it your opinion that there really
5 can only be two devices here in this claim, 25,
6 the remote device and the local device?
7   A.   That is how I understand the claim.
8 Well, I guess I should back up and understand your
9 question better. When you say only two devices,
10 what do you mean?
11   Q.   Well, we have a local device, remote
12 device, and then there's the use of client device.
13 But it's your understanding, based upon the patent
14 specification, file history that there really can
15 only be two devices, not three?
16   A.   I guess the problem I'm having is that
17 in Step B, the parameters are received from a
18 device separate from said client device, so that
19 device that is separate can be another device. So
20 maybe I'm not --
21   Q.   I see.
22   A.   That's why I'm having trouble with your
23 question.
24   Q.   I understand. But you believe that
25 there can only be reference to local device and

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1 remote device in Claim 25?
2   A.   No.
3   Q.   No. Is that for the same reasons we
4 just discussed, or why not?
5   A.   For the reasons I've given thus far,
6 yes.
7   Q.   Part of my question is this. You say
8 that there's a typographical error that was
9 introduced during prosecution, and the
10 typographical error is client, the word "client."
11 Right? It should be local but instead its client?
12   A.   Yes.
13   Q.   Why can't the typographical error, to
14 the extent one exists, be the word "said"? To
15 clarify, why can't the typographical error that
16 was introduced, to the extent one was introduced,
17 why can't that typographical error be said in
18 place of A?
19   A.   I don't think that's consistent with
20 what the patentees were discussing in the
21 amendments. It would -- I'm not sure I even
22 understand what it would mean in the context of
23 the invention if that were the case.
24   Q.   Well, here, we're talking about the
25 source of the pre-processing parameters. Why

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1 couldn't the patentee have intended the source of
2 the pre-processing parameters to be device
3 separate from a client device?
4   A.   Well, I don't believe that's what's
5 described. If they wanted to claim that, I
6 suppose there's nothing stopping them. I don't
7 know that -- I would have to look and see whether
8 there would be a basis for that in the
9 specification.
10   Q.   Well, sitting here today, can you think
11 of any intrinsic evidence that would prevent that,
12 the patentee from claiming that the source of the
13 pre-processing parameters was a client device?
14   A.   That's not what you mean. The source
15 of -- it would be --
16   Q.   Device separate from a client device.
17 Yes.
18   A.   I don't know that there's any
19 prevention of it. I don't know if there's any
20 basis for it in the specification. I would have
21 to look at that.
22   Q.   Do you think there's anything improper
23 about these claims in the '482 patent
24 containing -- strike that.
25   I believe you've talked about how

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1 certain local device and remote device are used
2 together. Right?
3   A.   Yes.
4   Q.   And how client device and server device
5 are used together?
6   A.   They are used in like the preambles of
7 the claims, yes.
8   Q.   Is there anything that precludes those
9 terms from being used on the same claim, that
10 those two pairs are not mutually exclusive?
11   A.   Theoretically, I don't think there is
12 anything that would prevent them from being in the
13 same claim.
14   Q.   In fact, there are claims in the '482
15 patent that have some crossover of those two
16 pairs. Is that right?
17   A.   I would have to look back and see.
18   Q.   For example, on Claim 1 of the '482
19 patent, do you see in the preamble client device,
20 and then in Step A you see receiving
21 pre-processing parameters from a remote device,
22 and at least at the end of Step C there is
23 reference to a server device. Right?
24   A.   Yes.
25   Q.   So again, just to follow up, there's

20 (Pages 74 to 77)

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1 nothing wrong with mixing and matching from those
2 two pairs of terms?
3   A.   No, there's not, as long as there's a
4 basis for it.
5   Q.   Now, in discussing, you know, what
6 should have been the claim language in Claim 25,
7 if we changed the word "client" to "local," that
8 would be -- would you agree that that would alter
9 the scope of the claim?
10   A.   I don't -- unless I have an
11 understanding of what said client device refers
12 to, it's difficult -- I don't know how I compare
13 the scope with the claim. I have an understanding
14 it applies to said local device, so I have an
15 understanding of the claim as it's written. And
16 if it's just said client device on its own and you
17 preclude such an understanding, then I'm not --
18 I'd have to know what it meant to have the scope.
19   Q.   I understand. Now, if we went with
20 this other suggestion that the typographical error
21 was said for A and we changed the language to say
22 that the pre-processing parameters received from
23 the device separate from a client device, that
24 would alter the scope of the claims. Do you agree
25 with that?

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1   A.   So as compared to if I look at the
2 alternative of said client device referring to
3 said local device and the other alternative being
4 said client device referring to a client device --
5   Q.   Uh-huh.
6   A.   -- I believe it would.
7   Q.   You said you analyzed, you first
8 analyzed Claim 25 of the '482 patent, at least a
9 couple of years ago. Right?
10   A.   Yes.
11   Q.   And you analyzed that claim, at least
12 during the pendency of the Samsung litigation?
13   A.   Yes.
14   Q.   Did you at any time during that time
15 period inform Summit 6 of this supposed
16 typographical error?
17   A.   I probably discussed -- I'm not sure
18 one or the other what I discussed, but I would
19 have -- it's something -- well, I don't recall for
20 sure whether I discussed it with Summit 6's
21 counsel or not. I wouldn't -- unless I'm seeing
22 it in person, I wouldn't reach out to Summit 6
23 directly on any issue because of concerns about my
24 role as an outside expert and them as company
25 people and I have information that they are not

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1 meant to have. So I -- any -- that style of
2 communication would have occurred through the
3 attorneys, but I don't recall whether it was
4 discussed or not.
5   Q.   Do you have any knowledge of whether
6 Summit 6 was aware of this alleged typographical
7 error?
8   A.   Not that I recall. I don't know if it
9 came up in some way in the previous case, but I
10 have no recollection of them knowing about this,
11 but I just don't know.
12   Q.   Are you aware of any efforts by
13 Summit 6 to seek a correction or certificate of
14 correction from the PTO regarding this
15 typographical error?
16   A.   No. And I typically stay away from
17 anything that involves prosecution. I don't know
18 if that involves prosecution, but I don't think I
19 would know that.
20   Q.   This is related, but are you aware of
21 any efforts by Summit 6 to inform the PTO of this
22 alleged typographical error?
23   A.   I don't know. I don't think I would
24 know.
25   Q.   Okay. Are you offering an opinion in

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1 your declaration or here today that Summit 6 meets
2 all the legal requirements of seeking a judicial
3 correction of this claim language?
4   MR. AURENTZ: Objection. Calls for a
5 legal conclusion and outside the scope of his
6 declaration.
7   THE WITNESS: I guess I have an
8 understanding of what the claim means. I also
9 believe that it's an obvious error that's
10 easily correctable by looking at the claim and
11 then the file history. But if that meets the
12 standard, then that meets the standard, but
13 that's -- that's the extent of my opinion.
14 BY MR. JAMES:
15   Q.   And I guess that's my question. Is it
16 within the scope of your declaration that you're
17 opining that Summit 6 meets the legal requirements
18 for seeking judicial correction?
19   A.   Nothing beyond what I've said just now.
20   Q.   And similarly, is it within the scope
21 of your opinion that Summit 6 meets the legal
22 requirement in seeking correction of the claim
23 language from the PTO?
24   MR. AURENTZ: Objection. Calls for a
25 legal conclusion. Outside the scope of his

21 (Pages 78 to 81)

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1 declaration.
2   THE WITNESS: Beyond what I've said, I
3 don't know, and I don't know -- I don't know
4 what would be -- what are the circumstances
5 under which you can -- all circumstances which
6 you can and cannot seek correction from the
7 PTO. I just don't know.
8 BY MR. JAMES:
9   Q.   I just wanted to make sure I understood
10 what the scope of your opinion was.
11   I want to turn to, I guess, media
12 object identifier. Would you like to take a break
13 now? How are you guys feeling about lunch?
14   A.   I'm fine to keep going.
15   MR. AURENTZ: I know we have the
16 2:30 issue. So if you think we can crank
17 through and get done before then, I'm happy to
18 do that. If not, then I'll leave it to
19 Dr. Jones to tell us when he's hungry.
20   MR. JAMES: I will also leave it to
21 Dr. Jones to tell us when he's hungry and need
22 a break. I'm happy to take a break now or
23 keep going.
24   THE WITNESS: I'm fine to keep going.
25 BY MR. JAMES:

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1   Q.   So I want to discuss media object
2 identifier, "media object identifier" term a
3 little bit. The phrase "media object identifier"
4 occurs in the '557 patent. Is that correct?
5   A.   Yes.
6   MR. JAMES: In case this comes up,
7 let's go ahead and mark the '557 patent.
8   (Jones Exhibit Number 11 is marked for
9 identification.)
10 BY MR. JAMES:
11   Q.   Now, Summit 6 has taken the position
12 that media object identifier should receive its
13 plain and ordinary meaning. Is that right?
14   A.   Yes.
15   Q.   It's also your opinion that media
16 object identifier should receive its plain and
17 ordinary meaning for this case. Is that also
18 right?
19   A.   Yes.
20   Q.   Okay. Now, media object identifier,
21 it's not a term of art in computer science. Is
22 it?
23   A.   It's not a phrase that, as a whole,
24 that's used all over the place, certainly.
25   Q.   I mean, if we looked that up in a

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1 dictionary of computer science, we probably
2 wouldn't find media object identifier. Is that
3 fair?
4   A.   I wouldn't be surprised if we didn't.
5   Q.   Okay. To your knowledge, does media
6 object identifier refer to any particular
7 structure in a programming language?
8   A.   What do you mean by that, by "structure
9 in a programming language"?
10   Q.   If we looked up the specification or
11 documentation on any of the number of languages,
12 does -- is there any one that you know of where
13 media object identifier is included in that?
14   A.   I wouldn't expect a phrase like that to
15 be part of a language.
16   Q.   And it's not in any of the languages
17 that you are familiar with?
18   A.   That wouldn't be how a computer
19 language is described. Terms like that appear in
20 things like the frameworks associated with
21 languages, but the language, itself, that seems
22 unlikely.
23   Q.   Is media object identifier included in
24 any of the frameworks of computer languages that
25 you are familiar with?

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1   A.   It may be in the descriptions. I don't
2 know one way or the other media object is, but it
3 would be pretty -- a phrase -- if you're talking
4 about something that's actually in an API, it's
5 pretty -- you may describe the API using a phrase,
6 but it would be unusual to have a phrase that has
7 spaces in it. This isn't the way one denotes a
8 particular API call, generally, in computer
9 languages.
10   Q.   Okay. But you can't think of any API
11 calls in any languages that you're familiar
12 with -- well, strike. I understand your answer, I
13 think.
14   The sum analysis of the patent in file
15 history would be required to understand what a
16 media object identifier is. Is that fair?
17   A.   Yes.
18   Q.   So I'll go ahead and ask it. What is
19 the plain meaning, plain and ordinary meaning of
20 media object identifier?
21   A.   The media object identifier is software
22 that is then defined in the claims, and the claims
23 tell you what it is and what it does, the claims
24 that are at issue.
25   Q.   Okay. Well, let's look at some of the

22 (Pages 82 to 85)

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1 things that you mentioned that define and explain

2 what a media object identifier is and does. Let's

3 look specifically at Paragraph 46 of your

4 declaration.

5   In Paragraph 46 of your declaration,

6 you state that a media object identifier -- this

7 is in 46A, that a media object identifier includes

8 a graphical user interface. Is that right?

9   A.   Yes.

10   Q.   Would you say that a media object

11 identifier is an interface?

12   A.   It includes an interface, but it's more

13 than that.

14   Q.   Okay. Just very briefly, I want to

15 refer back to Exhibit 10, which is Summit 6's

16 opening brief. On Page 33, second full paragraph,

17 it starts with "second, the specification

18 repeatedly confirms the understanding that a media

19 object identifier is an interface for acquiring

20 and pre-processing a media object."

21   Do you agree with that statement?

22   A.   As long as that's not all it is, yes.

23   Q.   In what way is it an interface? And

24 specifically as opposed to providing an interface.

25 In what way could you say that media object

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1 identifier is an interface?

2   A.   It includes a user interface that

3 allows you to acquire a media object.

4   Q.   Like I said, the media object

5 identifier is more than that, it's more than an

6 interface?

7   A.   Yes.

8   Q.   You also say -- let's go back to your

9 declaration, 46B. You state that "Media object

10 identifier is a computer software that can be

11 embedded in a website." Is that right?

12   A.   Included or embedded in a website, yes.

13   Q.   In 46C, you state that "The media

14 object identifier must be capable of

15 pre-processing media objects." Is that right?

16   A.   Yes.

17   Q.   So one of the things that it has to do

18 is pre-process media objects?

19   A.   Yes.

20   Q.   Would you agree that that's a

21 functional definition?

22   A.   It's a function it has to perform.

23 Yes.

24   Q.   In 46D, you state that "The claims

25 provide additional limitations that further define

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1 what the media object identifier of a claim must

2 be capable of." Is that right?

3   A.   Yes.

4   Q.   What capabilities are those? And I

5 guess I would say can you give that answer without

6 reading every single claim, or do you have it in

7 your mind what those capabilities are?

8   A.   What I had in mind was the limitations

9 that are further introduced about what it

10 describes. So I would have to go through the

11 claims to show you each one of those. That's how

12 I would do it.

13   Q.   I don't think any of us want to do that

14 on the record right now. Now, in Paragraph 40 --

15 I'm sorry, one second.

16   Paragraph 48 of your declaration, you

17 state that "The media object identifier must

18 include a graphical user interface for acquiring

19 media objects, such as photo, video and audio

20 files"?

21   A.   Yes.

22   Q.   That's -- that seems to be a repeat of

23 what we said earlier in 46. Is that any different

24 from -- yeah. I'm sorry, in 46A?

25   A.   I think it's providing more detail.

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1   Q.   Okay.

2   A.   In the entire paragraph.

3   Q.   I see. Okay. Such as media objects,

4 such as photo, video or audio files and

5 pre-processing them in preparation for

6 transmission elsewhere? Is that the detail you're

7 referring to?

8   A.   Yes.

9   Q.   All right. And in Paragraph 49, you

10 list again several examples of how media object

11 identifiers operate. So in A, again, they provide

12 a graphical user interface for placing and

13 associating a media object from a user's desktop

14 onto a web page. Do you see that?

15   A.   Yes.

16   Q.   And in B, "Media object can be

17 associated with a media object identifier in two

18 ways through drag-and-drop behavior or by clicking

19 and browsing for files." Do you see that?

20   A.   Yes.

21   Q.   So with that last point, is it fair to

22 say that the graphical user interface must enable

23 those features?

24   A.   Which graphical user interface are you

25 referring -- I believe those are done through a

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23 (Pages 86 to 89)

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1 graphical user interface in part of the preferred
2 embodiment. That's correct.
3   Q.   Okay. But I guess my question is, in
4 your view, based upon the disclosure in the
5 specification, a media object identifier must
6 enable drag-and-drop behavior and clicking and
7 browsing for files? Is that right?
8   A.   No.
9   Q.   What's wrong with that?
10   A.   I don't -- that would put a -- that
11 would restrict the graphical user interface to
12 only those operations.
13   Q.   Okay. Well, without restricting the
14 media object identifier to those operations, would
15 you say must be capable of those operations?
16   A.   No. My recollection is they're claims
17 that would indicate that those don't have to be
18 included in the scope of the claim.
19   Q.   So sometimes it does, sometimes it
20 doesn't, enable drag-and-drop, for example?
21   A.   Yes. I think the specification makes
22 it clear that those are two alternatives.
23   Q.   And the other alternative being
24 clicking and browsing for files?
25   A.   Yes.

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1   Q.   Both of those are ways of -- I guess
2 both of those, say, are input mechanisms. Is that
3 fair?
4   A.   Yes.
5   Q.   Can a media object identifier receive
6 input in other ways other than drag-and-drop and
7 click to browse?
8   A.   I believe it could.
9   Q.   Which ways are those?
10   A.   I would have to consider a specific
11 method and see whether it was -- met the elements
12 or not, but I don't have in mind a list of all the
13 possible ways it could be done, but I don't see
14 something that limits it to only those two.
15   Q.   Are there any input mechanisms that are
16 excluded from a media object identifier?
17   A.   I think it would depend on the claims,
18 but, again, I haven't considered what -- if it
19 meets the claim limitations, then it meets the
20 claim limitations. The claim limitations describe
21 what the -- well, it's redundant, but they
22 describe what the limitations are.
23   Q.   Sure. Now, you state that "The media
24 object identifier can be implemented using ActiveX
25 controls." Is that right?

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1   A.   Yes.
2   Q.   You also said that, "ActiveX provided
3 built-in capabilities that supported interactions
4 of the type described in the specification."
5 Correct?
6   A.   Yes.
7   Q.   Which built-in capabilities are you
8 referring to?
9   A.   The ability to have an ActiveX control
10 within a web browser interact with a -- be
11 interacted with be a drag-and-drop. So the
12 controls, themselves, would allow a programmer to
13 respond to events that are from a mouse, such as
14 drag-and-drop.
15   Q.   Now, you said earlier that ActiveX is a
16 framework. Right?
17   A.   Yeah. That's how I would describe it.
18   Q.   And you could implement an ActiveX
19 control using several languages?
20   A.   Yes.
21   Q.   You could do it in C++?
22   A.   That's my recollection, yes.
23   Q.   Visual C++?
24   A.   I don't know that that's any different
25 than anything else.

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1   Q.   Visual Basic?
2   A.   Yes.
3   Q.   Java?
4   A.   I don't recall that -- I don't
5 recollect it was -- that there's support for that
6 one. I don't think it was.
7   Q.   Okay. Are there any other languages
8 that you recall you could implement ActiveX
9 controls in?
10   A.   I think it was like maybe VBScript. I
11 don't recall the time frame on that, but that may
12 be. And then I think there was another scripting
13 possibility. I don't recall the name of it.
14   Q.   Okay. A programmer who wanted to
15 implement drag-and-drop features on an ActiveX
16 control would have to code that. Right?
17   A.   The ActiveX framework would provide you
18 with the event, and then it would be the
19 programmer's responsibility for how to -- what
20 they wanted to do in response to a drag-and-drop
21 event.
22   Q.   I see. And they could program that
23 response in any of the languages we just spoke of.
24 Right?
25   A.   Yeah, I don't think -- I don't think

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24 (Pages 90 to 93)

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1 say that, "One of ordinary skill in the art would
2 also look to the code in Appendix A, as well as
3 the description of this in the prose of the
4 specification." Do you see that?
5   A.   Yes.
6   Q.   All right. Now, on the '557, so the
7 patent, if you look at Appendix A, I believe it
8 starts at column 7. Is that right?
9   A.   Yep.
10   Q.   Okay. Can you show me or point out in
11 Appendix A where the media object identifier is?
12   A.   This code describes configuring it and
13 then making calls that invoke it on the page as
14 well as the code to download it. It doesn't give
15 you the code within the media object identifier
16 itself.
17   Q.   So in Appendix A, there's just the call
18 to something that would potentially be the media
19 object identifier?
20   A.   There's the call. There are the
21 parameters to it. There is the description of it
22 and the ways in which it interacts with -- within
23 the context of the web page.
24   Q.   So again, that's -- the media object
25 identifier is, would you say it's something that's

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1 included or embedded in -- or could be included or
2 embedded in a script such as Appendix A?
3   A.   I'm not sure what you mean.
4   Q.   Right. Strike that. Let me think
5 about that one.
6   Let me just move away from that to
7 Paragraph 51 of your declaration. Paragraph 51
8 says that, "The media object identifier acquires
9 media objects, for example" -- "using, for
10 example, the filename and url information." Do
11 you see that?
12   A.   Yes.
13   Q.   So again, this is a capability that the
14 media object identifier must have. Is that right?
15   A.   When you say "this is a capability," I
16 guess, what are you referring to as the
17 capability?
18   Q.   Acquiring media objects using, for
19 example, the filename and url information.
20   A.   It needs to have a way of -- I don't
21 believe that the only way it has to do it. And it
22 can use a filename to store the media object
23 that's been identified to it by, for example,
24 drag-and-drop or click to browse.
25   Q.   So it can acquire media objects using

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1 the filename and url information, but it doesn't
2 necessarily have to be able to. Is that what
3 you're saying?
4   A.   I don't believe the independent
5 claims -- my recollection is they don't require
6 that it do it in that particular way or that the
7 media object identifier must include a filename.
8 I don't believe that's a restriction.
9   Q.   So a person of skill in the art looking
10 at the specification and seeing these citations
11 and support that you identify, what are they to
12 make of that? That it must be capable of this?
13 That it can be capable of this?
14   A.   That this is an example of how the
15 media object identifier in the preferred
16 embodiment operates.
17   Q.   But it's your opinion it's not limited
18 to those methods?
19   A.   I don't believe that the claim language
20 of at least the independent claims limits the
21 media object identifier to operate in those ways.
22 If the -- I don't believe it's limited in that
23 functionality, and if the -- if you were to take
24 the point of view, which I think is incorrect, I
25 don't believe that this is a means-plus-function

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1 claim, so I don't think it's limited to the
2 structure that's disclosed in the specification.
3   Q.   We're not at means-plus-function yet,
4 but -- and again, we're still, as far as I'm
5 concerned, trying to figure out what the plain and
6 ordinary meaning of media object identifier is.
7   So within that context, a person of
8 skill in the art reading these citations and
9 seeing this information, is it your position that
10 such a person would understand that there's no
11 limit to the type of input that -- input methods
12 that's available through a media object
13 identifier?
14   A.   No. First of all, it has to be a
15 graphical user interface, so I don't think there's
16 no limit to it.
17   Q.   But within a graphical user interface,
18 there are multiple methods of receiving input that
19 could potentially identify a media object. Right?
20   A.   Yes.
21   Q.   And one example is by using filename
22 and url?
23   A.   Yes. For example, you could, forward
24 the filename that is delivered to it, be a
25 drag-and-drop or the graphical browser.

26 (Pages 98 to 101)

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1   It sounds to me like you're basically
2 just restating the function with another function,
3 as opposed to a structure.
4   MR. AURENTZ: Objection. Compound.
5   Vague. Is there a question? You made two
6   statements there at the end. I'm not sure
7   what the pending question is.
8   MR. JAMES: Fair enough.
9 BY MR. JAMES:
10   Q.   Just to restate, you've said that the
11 disclosed structure for performing the function of
12 enabling receipt of an identification of an image,
13 video or audio file is the portion of the media
14 object identifier which provides the functionality
15 of receiving the identification of an image, video
16 or audio file, I'm paraphrasing.
17   How is that more than just restating
18 the function?
19   A.   The -- what I'm talking about there is
20 that the media -- in the context of the preferred
21 embodiments, which I go on to describe below, it
22 describes how that's done or two ways that can be
23 done in the media object identifier.
24   So it's saying that this is what the
25 media object identifier does and here are two ways

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1 it accomplishes that.
2   Q.   Okay. But there's -- when you talk
3 about the drag-and-drop feature, in the
4 specification, there's no disclosure of how that
5 functionality takes place or is implemented.
6 Right?
7   A.   I wouldn't agree with that.
8   Q.   How so?
9   A.   I believe, first of all, the
10 specification describes how the media object
11 identifier itself is sized. It then describes the
12 process by which it responds to detect the --
13 describes the process of interacting with the
14 user, which would include detecting that the mouse
15 is over the media object identifier, And then when
16 the user releases their mouse, at that point,
17 detecting that event, as well.
18   Q.   Right. So that's a disclosure of the
19 interaction between the user and the media object
20 identifier.
21   But what I was asking was, there's no
22 disclosure of how the drag-and-drop functionality
23 itself is implemented in code, for example?
24   A.   Right, and that's not the requirement
25 because the function isn't drag-and-drop. The

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1 function is what is the structure -- I have a
2 function, and I need to implement, or I have an
3 algorithm for doing that, and this is describing
4 that algorithm.
5   Q.   But the algorithm that you're
6 describing is use drag-and-drop functionality. Is
7 that fair?
8   A.   No.
9   Q.   Okay. Well, I don't understand.
10   A.   The specification describes, first of
11 all, that this is a media object identifier, that
12 it is sized according to parameters it receives,
13 that it is displayed on the pages as disclosed
14 separately for ActiveX and Java in Figures 1 and
15 2. It describes the user interaction, which is
16 specifically would be detecting that the mouse
17 pointer is over the display of the media object
18 identifier, and then the interaction -- that the
19 user releases their button, so both of those
20 events are detected in the drag-and-drop
21 operation.
22   Q.   And that is the extent of the algorithm
23 for accomplishing function, in your opinion?
24   A.   That allows the acquisition of the --
25 the identification of the media object. It

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1 also -- the specification also describes a
2 filename that is -- it's described as an object
3 that stores the name of the identified file, and
4 then it also describes the capability of the media
5 object identifier to -- how it can receive
6 information about, for example, an account, like a
7 user ID or password.
8   Q.   And so -- what I'm hearing is it can
9 accomplish this by performing -- by using certain
10 of these features, like drag-and-drop or the url.
11   Just so we're clear, there's no further
12 step-by-step explanation or other kind of
13 algorithm for how those objects like -- or how the
14 media object identifier performs the function,
15 beyond what you just described?
16   A.   Beyond the steps I described that
17 performed the function, it doesn't disclose, for
18 this particular embodiment, it does not disclose
19 another layer of disclosure of those steps, so it
20 discloses steps for an algorithm. It doesn't
21 disclose the steps of the step of an algorithm.
22   Q.   I think I understand what you're
23 saying. So, for example, it discloses -- you're
24 asserting that the algorithm includes using, for
25 example, drag-and-drop functionality, but the

30 (Pages 114 to 117)

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1   patent doesn't further describe how the
2   drag-and-drop functionality is itself implemented?
3   Another layer of description below that?
4   A.   I think it describes the operation of
5   the drag-and-drop functionality. It doesn't
6   describe another level below that.
7   Q.   Okay. And similarly, with click to
8   browse. It describes using click to browse, but
9   it doesn't actually -- it doesn't go beyond that
10   to describe how the click to browse works or is
11   implemented?
12   A.   It describes steps in click to browse.
13   It doesn't go on to further describe each step.
14   Q.   And in your opinion, that is
15   sufficient -- well, scratch that.
16   Look at Paragraph 62, your declaration.
17   You cite to, at least to Figures 1 and 2 of the
18   '515 patent. Take a look at Figures 1 and 2. Do
19   you have Figure 1?
20   A.   I do.
21   Q.   Let's look at Figure 1. This is
22   purported to be a diagram of the exemplary web
23   page. Is that right?
24   A.   Yes.
25   Q.   And the media object identifiers are

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1   the boxes in the middle that says, for example,
2   "drag photo here in front view." Is that correct?
3   A.   Yes, at least the graphical user
4   interface associated with the media object
5   identifier.
6   Q.   Right. Is there a particular HTML
7   element that's depicted here with the graphical
8   user interface?
9   A.   My recollection is that this is
10   referring to the ActiveX control. I would get
11   that from the fact that it's a drag
12   implementation, as opposed to Figure 2, which is a
13   click implementation. I don't know if it
14   describes it more specifically than that or
15   whether that -- well, that would be my reason for
16   why I believe one is the ActiveX control and one
17   is referring to the Java control in the preferred
18   embodiment. But I don't recall whether it's
19   specifically called out that way.
20   Q.   Figure 1 and Figure 2, just in and of
21   themselves, without the explanation, they don't --
22   you can't look at them and say oh, that's an
23   ActiveX control. Could you?
24   A.   Unless ActiveX was the only thing that
25   would let you do drag-and-drop in that time frame

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1   in a web page, then I can't think of why.
2   Q.   And similarly, with Figure 2, just
3   looking at Figure 2 doesn't tell you that this is
4   a Java applet or some other kind of component. Is
5   that fair?
6   A.   The picture alone wouldn't tell me
7   that.
8   Q.   Does the picture alone tell you how --
9   does the picture alone give you an algorithm for
10   how to accomplish identifying the digital content?
11   A.   No.
12   Q.   As long as we're on the figures, let's
13   look at Figure 3. Now, in Paragraph 63 of your
14   expert report, you state at Figures 3 and 4 and
15   4B, for that matter, "Provide further structural
16   details regarding the filename that identifies the
17   digital content." Do you agree with that?
18   A.   Yes, they do.
19   Q.   And specifically, you note the
20   SubmitMediaRequest function in, I guess, it's
21   Figure 4?
22   A.   Yes.
23   Q.   Where in Figure 3, 4A, or even 4B is
24   there disclosed an algorithm or detailed
25   explanation for -- of how the SubmitMediaRequest

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1   function enables identification of a file?
2   A.   What the SubmitMediaRequest is showing
3   is that the -- it allows the association of the
4   identified object with the account. That's the
5   purpose of citing to that.
6   Q.   Now, SubmitMediaRequest, though, here,
7   in Figure 4A, all it discloses is the signature
8   for calling that function. Isn't that right?
9   A.   Yes, and what that signature is saying,
10   since we know that is what is in a preferred
11   embodiment call to upload the image, that this is
12   the indication that the identified structure is
13   capable of receiving the identification of the
14   media object for the purpose of associating it
15   with an account, and that's what -- this is
16   indicating that's precisely what was done.
17   Q.   So in your opinion, this is a structure
18   that would satisfy the means-plus-function claim?
19   A.   It's showing -- this is a portion that
20   shows that it's -- that the function isn't just
21   receiving identification and doing whatever you
22   want, right? It's -- to paraphrase it, there has
23   to be a receipt of the information that is to be
24   associated with said account, and this is
25   indicating how that is associated with said

31 (Pages 118 to 121)

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1   on how to put those media object identifiers in
2   groups on the same page. So I wouldn't agree with
3   that.
4   Q.   But there's no further level of
5   explanation how to accomplish the function using
6   batch interface?
7   A.   Beyond what I've identified, I don't
8   believe so. Any algorithm is going to describe
9   steps at meaningful levels. At some point you
10 can't just keep describing each one in further
11 detail until you get down to computer
12 instructions. Short of giving source code, I
13 don't think -- I can't imagine giving much more
14 structure than this.
15   Q.   In a lot of these cases, the algorithm
16 that you describe is basically to use kind of a
17 feature of computer programming, such as
18 drag-and-drop or click it to browse, but there's
19 not an algorithm for how to implement that
20 feature. Is that right?
21   A.   I would say first, the function isn't
22 just -- the algorithm isn't limited merely to do
23 drag-and-drop. It describes how the drag-and-drop
24 operates. It describes it being within a
25 particular framework. It describes the ability to

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1   control the size of the user interface that's
2   provided. It describes precisely the operation of
3   the drag-and-drop.
4   It doesn't go into further detail to
5   say here is the code that processes that
6   particular event, but it certainly describes an
7   algorithm that is sufficient to tell one how to do
8   this.
9   Q.   Is that because a person of skill in
10 the art would understand how to do it, based upon
11 that description, in your opinion?
12   A.   I think a person of skill in the art
13 would understand this is an algorithm is disclosed
14 here, and actually, alternative algorithms are
15 disclosed here, and that one of ordinary skill in
16 the art would be able to implement that algorithm.
17   I mean, short of actually giving the
18 source code, I don't think there's much more you
19 would say.
20   Q.   And in your opinion, it's not necessary
21 to provide that source code?
22   A.   That's correct. And I think that the
23 standard also doesn't say you have to provide
24 source code.
25   Q.   Fair. Source code or any other further

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1   detailed description. Would you agree that you
2   don't think any further detailed description is
3   required regarding how to implement some of these
4   features, like drag-and-drop, click to browse,
5   batch interface, the SubmitMediaRequest function?
6   A.   What I would say is that an algorithm
7   has been disclosed, and that algorithm is
8   sufficient structure, and it's disclosed in
9   sufficient detail to tell me what that structure
10 is.
11   Certainly there are -- and it's a
12 particular way of doing this function, and the
13 function isn't drag-and-drop. The function is,
14 paraphrasing, it's receiving identification.
15   Q.   And so in order to accomplish the
16 function of receiving the identification, in your
17 opinion, it's sufficient to disclose, for example,
18 the SubmitMediaRequest function without providing
19 implementation details or steps of how that
20 SubmitMediaRequest function operates?
21   A.   SubmitMediaRequest isn't even -- the
22 identification has already been received by that
23 point, so the entire purpose of showing
24 SubmitMediaRequest, particularly in light of the
25 specification, is to indicate that the

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1   identification of the media object is received to
2   be associated with an account, and that's an
3   example of a subroutine call that includes both
4   the media and the account.
5   Q.   I see. And it's your opinion that the
6   disclosure of click to browse feature is
7   sufficient structure for accomplishing -- for
8   enabling the receipt of identification on a media
9   file, without providing any further implementation
10 details regarding that click to browse feature?
11   A.   Yes, because it's describing in detail
12 what the system is going to do to receive that
13 media object identifier. I'm sorry, to receive
14 the media object.
15   MR. JAMES: Take a short break?
16   MR. AURENTZ: Before we go off the
17 record, you were talking earlier about his CV
18 not being in the filing.
19   MR. JAMES: Yes.
20   MR. AURENTZ: And we've recently just
21 corrected that appendix. I don't know if you
22 all saw the ECF go through.
23   MR. JAMES: Is that today?
24   MR. AURENTZ: Yeah. If you want his
25 CV, for purposes of the deposition, it's the

33 (Pages 126 to 129)

Mark T. Jones, Ph.D.
January 29, 2015

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1 same one you got back in July when we
2 disclosed him as an expert. So you already
3 have it.
4   MR. JAMES: Okay.
5   MR. AURENTZ: It's just it wasn't with
6 the filing. If you want to test his
7 qualifications or whatever, you know, we have
8 it available such that you can do that.
9   MR. JAMES: All right. I appreciate
10 that, and I don't think I need it for this
11 deposition.
12   MR. AURENTZ: Okay.
13   THE VIDEOGRAPHER: The time is
14 approximately 2:08 p.m., and we are going off
15 the record.
16   (Break in proceedings.)
17   THE VIDEOGRAPHER: The time is
18 approximately 2:13 p.m., and we are back on
19 the record.
20   MR. JAMES: I think that's all the
21 questions I have at this time. I pass the
22 witness.
23   MR. DOAN: Nothing from Apple.
24   MR. AURENTZ: No questions.
25   THE VIDEOGRAPHER: If there are no

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1 further matters, the time is approximately
2 2:13 p.m., and this deposition is concluded.
3 Thank you.
4
5   (Deposition adjourned at 2:13 p.m.)
6
7   (Signature reserved)
8
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10   * * * * *
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1   DEPOSITION ERRATA SHEET
2 Case Caption: Summit 6 LLC v. HTC Corporation, et al
3 Deposition Date: January 29, 2015
4
5   DECLARATION UNDER PENALTY OF PERJURY
6   I declare under penalty of perjury that I have read
7 the entire transcript of my Deposition taken in the
8 captioned matter or the same has been read to me, and the
9 same is true and accurate, save and except for changes
10 and/or corrections, if any, as indicated by me on the
11 DEPOSITION ERRATA SHEET, hereof, with the understanding
12 that I offer these changes as if still under oath.
13 Signed on the __ day of ____, 20__.
14
15   _____
16   MARK T. JONES, Ph.D.
17
18 Subscribed to and sworn before me this ___ day of _____,
19 20__, in _____.
20
21 _____
22 Notary Public
23 My commission expires: _____, 20__
24 Notary Public Registration No. _____
25

Page 133

1   DEPOSITION ERRATA SHEET
2
3 Page No.____ Line No.____ Change to:_____
4 _____
5 Reason for change: _____
6 Page No.____ Line No.____ Change to:_____
7 _____
8 Reason for change: _____
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21 Page No.____ Line No.____ Change to:_____
22 _____
23 Reason for change: _____
24 SIGNATURE:_____DATE:_____
25   MARK T. JONES, Ph.D.

34 (Pages 130 to 133)

U.S. LEGAL SUPPORT
(619) 573-4883

APPX - 16

Dated: February 6, 2015   Respectfully submitted,

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3

4

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 6, 2015, all counsel of record who are

deemed to have consented to electronic service are being served with a copy of this document via

the Court's CM/ECF system. Any other counsel of record will be served in accordance with the

Federal Rules of Civil Procedure.

<div style="text-align: right;">

s/ Ashley Moore

Ashley Moore

</div>